



BILLING CODE 3510-DS-P

**DEPARTMENT OF COMMERCE
INTERNATIONAL TRADE ADMINISTRATION
[A-560-830]**

Biodiesel from Indonesia: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of biodiesel from Indonesia are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is January 1, 2016, through December 31, 2016. The final weighted-average dumping margins are listed below in the section entitled “Final Determination Margins.”

DATES: Applicable March 1, 2018.

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Alex Cipolla, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2371 or (202) 482-4956, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 2017, Commerce published in the *Federal Register* the preliminary affirmative determination of sales at LTFV in the antidumping duty (AD) investigation of biodiesel from Indonesia.¹ On December 8, 2017, Commerce published a postponement notice,

¹ See *Biodiesel from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 82 FR 50379 (October 31, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (PDM).

extending the due date of the final LTFV determination until February 15, 2018.² Commerce invited comments from interested parties on the *Preliminary Determination*.³ The petitioner, Wilmar, and Musim Mas filed case and rebuttal briefs on both sales and cost issues.⁴ In addition, the Government of Indonesia filed a case brief. Commerce exercised its discretion to toll deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. The revised deadline for the final determination of this investigation is now February 20, 2018.⁵ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by interested parties for this final determination, may be found in the Issues and Decision Memorandum.⁶ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and it is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision

² See *Biodiesel from Argentina and Indonesia: Postponement of Final Determinations of Sales in Less Than Fair Value Investigations and Extension of Provisional Measures*, 82 FR 57952 (December 8, 2017).

³ See Memorandum "Antidumping Duty Investigation of Biodiesel from Indonesia: Deadline for Case Briefs," dated November 22, 2017; see also Memorandum "Antidumping Duty Investigation of Biodiesel from Indonesia: Deadline for Case Briefs," dated December 1, 2017.

⁴ The petitioner is the National Biodiesel Board Fair Trade Coalition, which is an *ad hoc* association comprised of domestic producers of biodiesel, as well as one trade association. See, e.g., *Biodiesel from Argentina and Indonesia: Antidumping and Countervailing Duty Petitions*, dated March 23, 2017. The mandatory respondents in this investigation are Wilmar Trading PTE Ltd. (Wilmar) and PT Musim Mas (Musim Mas).

⁵ See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended*, 70 FR 24533 (May 10, 2005).

⁶ See Memorandum to the File, "Issues and Decision Memorandum for the Final Affirmative Determination in the Antidumping Duty Investigation of Biodiesel from Indonesia," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is biodiesel from Indonesia. Commerce did not receive any scope comments subsequent to the *Preliminary Determination* and, therefore, the scope has not been updated since the *Preliminary Determination*. See the scope in Appendix I to this notice.

Period of Investigation

The POI is January 1, 2016, through December 31, 2016.

Verification

As provided in section 782(i) of the Act, we conducted the cost and sales verifications of Wilmar in Medan, Indonesia, Singapore, and Pearland, Texas, in October and November, 2017. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix II.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations. For a discussion of these changes, see the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate for

exporters and producers not individually investigated shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding any margins that are zero or *de minimis* or any margins determined entirely under section 776 of the Act. In this investigation, Commerce assigned a rate based entirely on facts available to Musim Mas. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Wilmar. Consequently, the rate calculated for Wilmar is also assigned as the rate for all-other producers and exporters, as referenced in the “Final Determination Margins” section below.

Final Determination Margins

The weighted-average dumping margins are as follows:

Exporter or Producer	Estimated Weighted- Average Dumping Margin (percent)
Wilmar Trading PTE Ltd	92.52
PT Musim Mas	276.65
All-Others	92.52

Disclosure

We will disclose the calculations performed within five days of any public announcement of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of biodiesel from Indonesia, as described in Appendix I of this notice, which were

entered, or withdrawn from warehouse, for consumption on or after October 31, 2017, the date of publication of the *Preliminary Determination*.

Furthermore, pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), Commerce will instruct CBP to require a cash deposit for such entries of merchandise equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These instructions will stay in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the U.S. International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2)(B) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of biodiesel from Indonesia no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from

warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: February 20, 2018.

Prentiss Lee Smith,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

Scope of the Investigation

The product covered by this investigation is biodiesel, which is a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, including biologically-based waste oils or greases, and other biologically-based oil or fat sources. The investigation covers biodiesel in pure form (B100) as well as fuel mixtures containing at least 99 percent biodiesel by volume (B99). For fuel mixtures containing less than 99 percent biodiesel by volume, only the biodiesel component of the mixture is covered by the scope of the investigation.

Biodiesel is generally produced to American Society for Testing and Materials International (ASTM) D6751 specifications, but it can also be made to other specifications. Biodiesel commonly has one of the following Chemical Abstracts Service (CAS) numbers, generally depending upon the feedstock used: 67784-80-9 (soybean oil methyl esters); 91051-34-2 (palm oil methyl esters); 91051-32-0 (palm kernel oil methyl esters); 73891-99-3 (rapeseed oil methyl esters); 61788-61-2 (tallow methyl esters); 68990-52-3 (vegetable oil methyl esters); 129828-16-6 (canola oil methyl esters); 67762-26-9 (unsaturated alkylcarboxylic acid methyl ester); or 68937-84-8 (fatty acids, C12-C18, methyl ester).

The B100 product subject to the investigation is currently classifiable under subheading 3826.00.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), while the B99 product is currently classifiable under HTSUS subheading 3826.00.3000. Although the HTSUS subheadings, ASTM specifications, and CAS numbers are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. SUMMARY
- II. BACKGROUND
- III. SCOPE OF THE INVESTIGATION
- IV. CHANGES SINCE THE PRELIMINARY DETERMINATION
- V. DISCUSSION OF THE ISSUES
 - Comment 1: Whether a Circumstances of Sale Adjustment is Appropriate for the Renewable Identification Numbers Value
 - Comment 2: Whether Commerce Erred in Disregarding Wilmar's Reported Home Market Sales Due to Particular Market Situation
 - Comment 3: Whether the Particular Market Situation Permits Disregarding Raw Material Costs
 - Comment 4: Whether the Particular Market Situation Adjustment for Crude Palm Oil Results in the Imposition of Double Remedies
 - Comment 5: Whether Commerce Erred in Its Selection of CV Profit Sources
 - Comment 6: Whether Commerce Should Correct Errors in Its CV Profit Calculation
 - Comment 7: Whether to Continue to Include Allocated RIN and BTC Values for Wilmar's U.S. Sales of Biodiesel Made Without RINs and BTCs
 - Comment 8: Whether Commerce Should Correct Its Constructed Value Calculation Based on Its Cost Verification Finding
 - Comment 9: Whether Commerce's Application of AFA to Musim Mas was Justified and Sufficiently Adverse
- VI. RECOMMENDATION

[FR Doc. 2018-04138 Filed: 2/28/2018 8:45 am; Publication Date: 3/1/2018]